

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

CYPRESS POINTE APARTMENTS, LLC,  
AND EASTWICK INVESTMENT, LLC

PLAINTIFFS

V.

CIVIL ACTION NO. 3:22-CV-481-DPJ-FKB

SILVERSTONE MANAGEMENT, LLC, ET AL.

DEFENDANTS

ORDER

This case is before the Court on Magistrate Judge F. Keith Ball's Report and Recommendation [21], addressing Plaintiffs' motion to strike [19] Defendant Silverstone Management's counterclaim and defenses related to patios/balconies. Judge Ball recommended granting Plaintiffs' motion; this Court agrees.

As detailed in the R&R, Silverstone has missed six opportunities to comply with discovery and/or court orders. R&R [21] at 1–2. Plaintiffs served Silverstone with interrogatories and requests for production of documents on November 18, 2022; Silverstone failed to respond. At a telephonic conference with Judge Ball, Silverstone promised to comply by January 13, 2023, but it did not. On January 19, 2023, Plaintiffs filed a motion to compel [17] full discovery responses; again, Silverstone failed to respond to the motion. On January 30, 2023, Judge Ball granted the motion to compel, setting a February 6, 2023 deadline. Order [18]. Silverstone missed that deadline, and Plaintiffs filed the subject motion to strike [19]. When Silverstone ignored that motion, Judge Ball entered an Order to Show Cause [20]; Silverstone never responded to the Show-Cause Order.

On this record, Judge Ball appropriately concluded that striking Silverstone's counterclaim and defenses related to patios/balconies was warranted under Federal Rule of Civil Procedure 37(b)(2)(A)(iii). *Id.* at 2–3. Silverstone filed no objections to the R&R. *See* Fed. R.

Civ. P. 72(b), advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

Judge Ball's recommendation is appropriate. Accordingly, the Court finds the unopposed Report and Recommendation [21] should be adopted. Plaintiffs' motion to strike [19] is granted. Finally, Silverstone is advised that it must comply with the rules and respond to court orders.

**SO ORDERED AND ADJUDGED** this the 21st day of April, 2023.

*s/ Daniel P. Jordan III*  
CHIEF UNITED STATES DISTRICT JUDGE